fountain-pen business in competition with the complainant. The defendant corporation bought this business for the express purpose of employing the name in unfair competition. *Held*, that relief will not be given further than to require the defendant to use the name with the suffix "not connected with the L. E. Waterman Co." *L. E. Waterman Co.* v. *Modern Pen Co.*, 235 U. S. 88.

Previous to this decision the attitude of our courts toward a trader who seeks to draw to himself the profit of a predecessor in the business through a similarity of name has been most severe. Newly formed corporations must not imitate the legal cognomen of a rival. *Holmes* v. *Holmes, etc. Co.*, 37 Conn. 278; *Hendriks* v. *Montagu*, 17 Ch. Div. 638. Repeatedly where a dummy member has been taken into a corporation or partnership for the very purpose of making possible the unfair competition, the use of the name in any way whatever has been prohibited. *Higgins Co.* v. *Higgins Soap Co.*, 144 N. Y. 462, 39 N. E. 490; *R. W. Rogers Co.* v. *Wm. Rogers Mfg. Co.*, 70 Fed. 1017; *Melachrino and Co.* v. *The Melachrino, etc. Co.*, 4 Pat. Rep. Eng. 215. Much of the former authority, furthermore, seems to regard it as immaterial that the individual from whom the name was secured had to a certain extent been actually engaged in the business. *R. W. Rogers Co.* v. *Wm. Rogers Mfg. Co., supra; Sawyer* v. *Kellogg*, 7 Fed. 720. See 12 HARV. L. REV. 243, 245. And when an enterprising but piratical manufacturer boldly changed his own name to match that of his competitor, its use by him was absolutely enjoined. *Pinet* v. *Pinet*, [1898] 1 Ch. 179. In contrast to all of this, it must be remembered that where the right of an individual to use his own name is involved the courts will never go further than to insist that he make an honest effort to prevent confusion in the public mind. *American Cereal Co.* v. *Eli Pettijohn Cereal Co.*, 72 Fed. 903; *Walter Baker & Co.* v. *Baker*, 77 Fed. 181. The majority opinion in the principal case lays stress on this point, and holds in effect that the assignee corporation must stand on the same footing as would the individual himself. But a corporation is free to choose its own name, and if it takes a name with practically no desire but that of unfair profit, there are no personal considerations to hamper the court. It would seem, therefore, as though justice fell short if it did not make the piracy completely impossible. No amount of relief in the shape of accompanying suffixes can altogether eliminate confusion, and to the extent that it fails the defendant corporation, as the dissent points out, is able to consummate its fraudulent desire. See *International Silver Co.* v. *Rogers Corporation*, 67 N. J. Eq. 646, 60 Atl. 187. Instructive sidelights are thrown on the principal case by its report in the District Court. See 193 Fed. 242.

WITNESSES — SEQUESTRATION — DISQUALIFICATION FOR DISOBEYING SEQUESTRATION ORDER. — A witness remained in court in violation of a sequestration order, without the connivance of the party calling him. The trial court excluded his testimony. *Held*, that the ruling is correct. *Illinois Central Ry. Co.* v. *Outland's Adm'x*, 170 S. W. 48 (Ky.).

Where a witness violates a sequestration order and remains in court, without the connivance or consent of the party calling him, the probable weight of authority holds it reversible error to exclude the testimony. *Friedman* v. *Myers*, 14 N. Y. Supp. 142; *Parker* v. *State*, 67 Md. 329, 10 Atl. 219; *Behrman* v. *Terry*, 31 Colo. 155, 71 Pac. 1118. Even under this rule, the fact that the witness has violated an exclusion order would, of course, affect his credit. See *Ferguson* v. *Brown*, 75 Miss. 214, 224, 21 So. 603, 605. It has been held, however, in accordance with the principal case, that exclusion of the witness is discretionary, even where the party for whom he testifies is not at fault. *Galveston, etc. Ry. Co.* v. *Pingenot*, 142 S. W. 93 (Tex. Civ. App.); *Thorn* v. *Kemp*, 98 Ala. 417, 13 So. 749. Against lodging this discretion in the trial court, it has been argued that an innocent party should not be deprived of

material testimony, but that the disobedient witness should rather be fined for contempt. See *Parker* v. *State, supra.* But whenever the presence of the witness during the other testimony is likely to prejudice seriously the opposing side, even though the jury have been instructed that the violation should impair the credibility of the testimony, the court should have discretion to exclude this evidence. In this event one of the two litigants must suffer, and it is just that the burden should fall on the party whose witness was disobedient. See 14 HARV. L. REV. 475, 492.

BOOK REVIEWS

THE CRIMINAL JUSTICE ADMINISTRATION ACT, 1914. By Neville Anderson. London: Stevens and Haynes. 1914. pp. 126.

The last volume of the English statutes, containing as it does almost entirely enactments dating from that fateful third of August, 1914, is apt to be of future interest much more to statesmen and historians than to lawyers and social reformers. It constitutes a most impressive body of war measures, dealing with finance, commerce, the defense of the realm, the security of food supply, the treatment of aliens, etc., etc. But even during those overwhelming days, a few acts, then in the process of legislation, reached passage, which are of importance beyond the exigencies of war time and of practical interest beyond the confines of England. Of these is the Criminal Justice Administration Act, 1914 (4 & 5 Geo. V, ch. 58).

This Act affects important changes in the administration of the criminal law in England. Its two main purposes are stated with summary accuracy in the title — "an Act to diminish the number of cases committed to prison [and] to amend the Law with Respect to the Treatment and Punishment of young delinquents."

The Prevention of Crimes Act, 1908 (8 Edw. VII, ch. 59), marked a decided change in the treatment of juvenile adult offenders (those between the ages of sixteen and twenty-one). The educative and preventive treatment of such delinquents, and the beginnings of a probationary system to make it effective, commenced by that Act, have now been extended. Juvenile adult offenders who have been sentenced to a payment of a fine may now be placed under the supervision of probation officers pending such payment and, before finally issuing a commitment for non-payment, a report of a probation officer as to the conduct and means of the offender is to be considered by courts of summary jurisdiction (Section 1 (3)). Even more important is the extension of the Borstal system (*i. e.*, industrial reformatory institutions for youthful delinquents). Under the Prevention of Crimes Act, 1908, sentences of detention in Borstal institutions could be imposed only in a limited number of cases. The present Act extends the scope of such detentions to every case where an offender is summarily convicted of an offense for which a sentence of imprisonment of one month or upwards, without the option of a fine, may be imposed, provided that such offender has been previously convicted or has failed to observe the recognizance on a previous discharge on probation and "it appears to the court that, by reason of the offender's criminal habits or tendencies or associations with persons of bad character, it is expedient that he should be subject to detention for such term and under such instruction and discipline as appears most conducive to his reformation and the repression of crime" (Section 10 (1)). Experience has demonstrated that a longer period of detention and supervision is necessary to give the Borstal system a fairer chance